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Harrington

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-212297**DATE:** July 28, 1983**MATTER OF:** Teleport Oil Company**DIGEST:**

GAO will not consider questions concerning small business size standards and status since the Small Business Administration has exclusive authority over these matters.

Teleport Oil Company protests a Department of Energy (DOE) operating contractor's award of contracts B83-049185 and B83-051183, small business set-asides, to Crysen Refining, Inc. Teleport questions the standard under which it was determined that Crysen Refining was qualified to bid as a small business. We dismiss the protest.

DOE informally advises that the operating contractor, with the Small Business Administration's (SBA) concurrence, found that Crysen met the small business size standard at Federal Procurement Regulations § 1-701-1(i) (1964 ed.) for concerns bidding on a contract to supply refined petroleum products. The regulation requires that the firm have less than either 500 or 1,000 employees, depending on certain listed circumstances.

Under 15 U.S.C. § 637(b)(6) (1976), the SBA has conclusive authority to determine matters of small business size standards and small business size status for Federal procurement purposes. See International Limousine Service, Inc., B-207136, August 26, 1982, 82-2 CPD 180. (DOE operating contractors act "for" the Government, and thus must comply with fundamental principles of Federal procurement. J. F. Small & Co., Inc., --Reconsideration, B-207681.3, July 14, 1983, 83-2 CPD ____.) The determination of the appropriate small business size standard for inclusion in a solicitation is for the contracting officer with right of appeal by a

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disaffected party to the SBA Size Appeals Board. 13 C.F.R. §§ 121.3-8 and 121.3-6 (1983). Also, in view of the SBA's authority, a challenge involving whether a small business actually meets the size standard set out in a solicitation similarly is a matter for the SBA, not our Office. Edwards Enterprises Incorporated, B-208317.2, January 13, 1983, 83-1 CPD 34.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel